

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

CRYSTAL V.L. RIVERS,)
)
Plaintiffs,)
)
v.) Case No. 6:18-cv-00061
)
UNITED STATES OF AMERICA, *et al.*,)
)
Defendants.)

**MOTION TO DISMISS FILED BY THE UNITED STATES,
KAREN DEER, AND MARY LOU PRILLAMAN**

The United States, Karen Deer, and Mary Lou Prillaman together file this motion to dismiss all claims against them. Plaintiff's constitutional claim against Deer and Prillaman in their individual capacities should be dismissed under Federal Rule of Civil Procedure 12(b)(6) because Plaintiff has no constitutional right to have the underlying financial disputes investigated, indicted, or prosecuted, and they are entitled to qualified immunity. Additionally, Plaintiff's claims under the Federal Tort Claims Act, 28 U.S.C. § 2671, *et seq.* should be dismissed under Federal Rule of Civil Procedure 12(b)(1) for lack of subject matter jurisdiction because she failed to exhaust administrative remedies. The tort claims also should be dismissed under Federal Rule of Civil Procedure 12(b)(6) for failure to state a claim upon which relief can be granted because Plaintiff lacks standing to bring a selective prosecution claim, the United States enjoys absolute prosecutorial immunity, and Virginia law does not recognize a selective prosecution tort. Moreover, Plaintiff's requested injunctive relief should be denied because Plaintiff is not entitled to extraordinary relief or any at all. The Court also should deny Plaintiff's motion to disqualify AUSA Winn or move this case to a different United States Attorney's Office.

A memorandum of law in support of this motion is filed contemporaneously.

Respectfully submitted,

THOMAS T. CULLEN
United States Attorney

Date: November 12, 2019

/s/ Sara Bugbee Winn
Sara Bugbee Winn
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CERTIFICATE OF SERVICE

I hereby certify that I have this 12th day of November, 2019, caused the foregoing to be electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification to all counsel of record and mailed a copy thru the United States Postal Service to the following non-CM/ECF participant:

Crystal VL Rivers
3831 Old Forest Road, Suite 6
Lynchburg, VA 24501

/s/ Sara Bugbee Winn
Assistant United States Attorney